

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 6/19/2022
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:
	:
-v-	:
	:
CARLOS JAVIER,	:
	:
Defendant.	:
	::
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1:20-cr-604-GHW

ORDER

GREGORY H. WOODS, United States District Judge:

On March 9, 2022, the Court sentenced Carlos Javier to four months imprisonment as a result of a violation of the conditions of his supervised release. *See* Dkt. No. 14. An undated letter from Mr. Javier was filed on the docket of this case on June 7, 2022 (the “Application”). Dkt. No. 18. The Application requests compassionate release based on the health conditions of a number of Mr. Javier’s family members and his understandable desire to be with his family.


The Court cannot grant the Application because Mr. Javier has not satisfied the statutory statutory preconditions for compassionate relief. 18 U.S.C. § 3582(c)(1)(A) reads in pertinent part as follows: “The court *may not* modify a term of imprisonment once it has been imposed *except that* . . . the court, upon motion of the Director of the Bureau of Prisons, or upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier, may reduce the term of imprisonment . . .” *Id.* (emphasis added). The language of this provision (“[t]he court may not”) expressly prohibits the Court from granting relief unless the statutory preconditions are satisfied. Mr. Javier’s application does not show that he has satisfied the statutory preconditions, therefore, his application is denied without prejudice.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed mail a copy of this order to Mr. Javier by first class mail.

SO ORDERED.

Dated: June 19, 2022
New York, New York



GREGORY H. WOODS
United States District Judge